

**State of Kansas**  
**Office of the State Bank Commissioner**

**Notice of Hearing on Proposed Administrative Regulations**

December 27, 2012

A public hearing will be conducted on Wednesday February 27, 2013 at 9:00 a.m. in the conference room of the Office of the State Bank Commissioner, 700 SW Jackson, Suite 300, Topeka, Kansas to consider the adoption of amendments to K.A.R. 17-11-18.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the Office of the State Bank Commissioner, 700 SW Jackson, Suite 300, Topeka, Kansas 66603 or by email to [diane.bellquist@osbckansas.org](mailto:diane.bellquist@osbckansas.org). All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulations during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Diane Bellquist at (785) 296-2266 ext. 201.

The proposed regulation amendments are for adoption on a permanent basis. A copy of the proposed amended regulation and Economic Impact Statement can be obtained by contacting Diane Bellquist. A summary of the proposed amendments and the economic impact follows:

**K.A.R. 17-11-18. Loans; documentation requirements.** The amendments to this regulation include increasing the dollar threshold before certain banks are required to maintain complete and current credit information on loans which are not adequately secured. Additionally, all references to trust companies have been removed.

There will be no economic impact to the Office of the State Bank Commissioner or other governmental agencies and their employees.

Edwin G. Splichal  
Bank Commissioner

**OFFICE OF THE STATE BANK COMMISSIONER  
ECONOMIC IMPACT STATEMENT  
K.A.R. 17-11-18**

**I. Summary of Proposed Amendments to Existing Regulation, Including Their Purpose.**

The proposed amendments to K.A.R. 17-11-18 are primarily twofold. First, the amendments in part would increase the dollar threshold for requiring a bank to maintain complete and current credit information on loans which are not adequately secured. This amendment would take into consideration the bank's capital levels and allow a greater threshold where it is less of a risk to a bank's capital. Second, the amendments to the regulation would delete all references to trust companies. Trust companies are not statutorily authorized to make loans, so the purpose of these amendments is to remove these references which are not consistent with their statutory powers and authority. Lastly, there are some minor changes that serve to clarify the agency's intent consistent with how the regulation is currently enforced.

**II. Whether or Not the Regulation is Mandated By Federal Law.**

These amendments are not mandated by federal law, nor do they exceed the requirements of applicable federal law.

**III. Anticipated Economic Impact Upon the Office of the State Bank Commissioner, Other Governmental Agencies, Private Citizens or Individuals.**

For loans between \$25,000 and \$100,000, which are not fully secured, examiners will need to calculate the bank's tangible capital. If the loan amount did not exceed one percent of the bank's tangible capital at the time the loan was made, then examiners would not require the bank to maintain complete and current credit information as of every 15 months, and examiners would not be required to review such information. It is anticipated this amendment would reduce documentation, expense, and regulatory burden for banks that meet the capital requirement. There is no anticipated economic impact on other governmental agencies. Individuals may be able to receive loans quicker and easier at these banks.

Since state chartered trust companies do not currently have the statutory authority to make loans, there is no anticipated fiscal impact to trust companies.

There is no anticipated fiscal impact to the Office of the State Bank Commissioner, other governmental agencies, private citizens, or individuals.

**IV. Summary of Alternatives Considered and Why Amendment to the Regulation is Necessary.**

The proposed amendments constitute the least costly and least intrusive option considered for achieving the regulatory intent of protecting the safety and soundness of Kansas banks.

**17-11-18. Loans; documentation requirements.** (a) Except as specified in this subsection, each bank shall maintain complete and current credit information, not older than 15 months, shall be maintained by the bank or trust company for any loan in excess of \$25,000 unless the loan for each loan that exceeds \$100,000 or one percent of the bank's tangible capital, whichever is less. This requirement shall not apply to each loan that either is less than \$25,000 or is adequately secured.

(b) ~~Title security.~~ Unless loan repayment is guaranteed by a governmental program or private insurance company, the following requirements shall be met:

(1) For each real estate loan in excess of \$25,000 but less than \$50,000, the bank or trust company shall complete one of the following tasks:

(A) The bank or trust company shall verify in writing that a lien search of the records of the county register of deed's office was conducted and the bank's or trust company's lien position was determined. This verification of a lien search shall be on file with the bank or trust company.

(B) The bank or trust company shall obtain and maintain on file either an attorney's written title opinion or a title insurance policy, and shall maintain the policy on file.

(C) For a non-purchase-money mortgage that is not a refinancing of an existing first mortgage, the bank or trust company shall obtain an insurance policy fully insuring the bank or trust company against loss of the mortgage priority position. The bank or trust company shall maintain a copy of the policy and any other supporting information on file.

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(2) For each real estate loan of \$50,000 or more, an attorney's written title opinion or a title insurance policy shall be on file with the bank or trust company.

(c) If the value of the improvements on any real estate is necessary for adequate protection of the loan, an insurance policy covering these improvements against fire and windstorm shall be on file with the bank for any loan in excess of \$25,000.

(d) A real estate mortgage or deed of trust, showing the filing information with the county register of deeds, shall be on file with the bank for each loan collateralized by real estate.

(e) For any loan collateralized by personal property, if the bank is required by law to file a financing statement to perfect a security interest, the bank or trust company shall retain a copy of the filed financing statement. In other cases, relevant the bank shall maintain all documents shall be maintained related to the loan. (Authorized by and implementing K.S.A. 2011 Supp. 9-1713, as amended by 2003 HB 2224, § 2; implementing K.S.A. 2011 Supp. 9-1101; effective Jan. 1, 1966; amended May 1, 1983; amended Jan. 27, 1992; amended Aug. 9, 1996; amended Jan. 18, 2002; amended May 30, 2003; amended P-\_\_\_\_\_.)

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